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"To enrich lives through effective and caring service"

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March 31, 2011

TO: Each Supervisor

FROM: Tom Tindall
Director

SUBJECT: **EVALUATION OF COUNTY CONTRACTORS' PRIOR PERFORMANCE
STATUS REPORT (ITEM #14, AGENDA OF NOVEMBER 30, 2010)**

On November 30, 2010, your Board directed Chief Executive Office (CEO), County Counsel (Counsel), the Auditor-Controller (A-C), and ISD to review the use of County contractors' prior performance information in evaluating proposals, develop a fair and consistent scoring methodology that can be used countywide, and return to your Board for approval of that methodology within 120 days.

This memorandum provides a status report of this initiative. ISD is preparing an updated Board policy, which will be presented for approval in May 2011.

Summary

A workgroup consisting of representatives from the CEO, A-C, Counsel, and ISD convened to review the evaluation of contractor prior performance data during the solicitation process and to develop new processes as needed. The workgroup focused on three areas related to the evaluation of contractor past performance in the solicitation process:

1. Evaluating contractors with no past performance on County contracts

The workgroup addressed questions about the differences in available contractor performance data for existing County contractors, versus potential contractors without recent County experience. These differences may result in a perception of inequities in the scoring process. To ensure comparable data sets between the two groups, departments will complete detailed Services Evaluation Checklists for those contractors without recent County experience.

2. Developing consistent evaluation policy and procedures for all County departments to follow

The workgroup established guidelines for evaluating and scoring contractor past performance in the solicitation process. This includes definitions of three general categories of poor contractor performance: major, significant and minor.

To provide consistency, the guidelines suggest criteria to determine the appropriate percentage deduction from a proposer's evaluation score for the documented violations.

3. Establishing an enhanced due process for existing contractors

To provide for contractor awareness of poor ratings, and due process for contractors to challenge any ratings, the County Contract Database will require departments to include documentation to support any negative reports. Such documentation would include Contract Discrepancy Reports (CDR's), audits, or other documentation that was provided to the contractor, along with any response provided by the contractor, to support negative findings.

A detailed discussion of these issues is included in the attached report.

Next Steps

The new contractor evaluation and scoring methodology was discussed with your Board's Audit Committee on March 17, 2011.

The workgroup is in the process of updating the applicable Board Policy for approval, and developing the solicitation language, evaluation documents and implementation instructions for County departments. We expect to bring this material forward for Board approval in May 2011, with a planned July 2011 implementation.

If you have any questions, please contact me at (323) 267-2101, or your staff may contact Joe Sandoval at (323) 267-2109.

TT:js

Attachment

c: Chief Executive Officer
Auditor-Controller
County Counsel

EVALUATION OF COUNTY CONTRACTOR PRIOR PERFORMANCE

Background

On January 13, 1998, the Board approved Policy No. 5.040, Contractor Performance Evaluation. The goal of this policy is to provide a standardized process for evaluating contractor performance on an annual or periodic basis, including reports to the Board when performance does not meet contract standard.

On December 21, 1998, the Board directed the CIO and ISD to develop and implement a database to track and establish a history of Information Technology (IT) contractor performance across all County departments. In April 1999, ISD notified the Board that an application and database had been developed. Effective May 1, 1999, all departments were instructed to enter contractor performance information on new or amended IT contracts in excess of \$100,000.

On October 22, 1999, the County's Living Wage Program was implemented. Applicable provisions in the Board-adopted Living Wage Manual require that departments assess a minimum of 10 percent of each evaluation score based on the proposer's past performance history, which includes items such as completion of work on time, within budget, and in compliance with the contract. The minimum 10 percent does not take into account labor law/payroll violations, which are addressed separately in the Manual.

On December 10, 1999, the Board approved merging IT, construction, and Proposition A contracts into the contracts database. As stated in the County Fiscal Manual, Section 12.4.4, the Contract Database instructions require that:

"Individual departments remain responsible for reviewing past contractor performance (i.e., past labor law issues on both County and non-County contracts) prior to recommending contracts, monitoring contractor performance, inputting relevant contractor information in the database, recommending findings of non-responsibility, and initiating debarment procedures, as appropriate."

In 2004, ISD incorporated a past performance component in its solicitation evaluation criteria. The approach included a review of the Contract Database with an evaluation of the information on the database. ISD has continued to use this approach in evaluating information on the Contract Database until November 30, 2010, when it was determined that the scoring and methodology used for evaluating contractor past performance was not being consistently applied across County departments.

Workgroup Achievements

A workgroup consisting of representatives from the CEO, A-C, Counsel, and ISD reviewed the evaluation of contractor prior performance data during the solicitation process and to develop new processes as needed. The workgroup focused on three areas related to the evaluation of contractor past performance in the solicitation process:

1. Evaluating contractors with no past performance on County contracts
2. Developing consistent evaluation policy and procedures for all County departments to follow
3. Establishing an enhanced due process for existing contractors

The following sections summarize the workgroup's evaluation of the focus areas.

- **Evaluating Contractors with No Past Performance on County Contracts**

Based on the size and complexity of County contracting, in most cases contractors are required to possess a minimum of three to five years of related experience in the proposed services. With the information provided by contractors in response to a solicitation, contractors with no prior County contract performance history will be evaluated and assessed using substantially similar methodologies as those with County experience. Contractors with County experience will be evaluated by using the Contracts Database, while contractors without prior County experience will be evaluated using the same criteria (identified on the Service Evaluation Checklist, Attach. II) by contacting other similar references. The reference check will use the same list of standard questions as the Contracts Database. Documentation to support negative entries will be required on the Contracts Database, as well as from other agencies.

- **Developing a Consistent Evaluation Policy and Procedures for All County Departments, and Enhancing Contractor Due Process**

As required by the Board-approved Living Wage Manual, departments will assess a minimum of 10 percent of each score based on an evaluation of the proposer's past performance history, which includes the completion of work on time, within budget, and in compliance with the contract.

The evaluation of a contractor's past performance will be included as part of the "Work History Evaluation" section of the evaluation document. Departmental responsibilities include a review and assessment of the following:

- County Contract Database (for Proposition A, IT, construction, and cafeteria contracts); and

- Other agency contracts held by the contractor (using the County Contract Database criteria).

In the solicitation process, the guidelines for evaluating and scoring contractor past performance establish three general categories that address the severity of poor contractor performance: major, significant and minor. The guidelines suggest various criteria to determine the appropriate percentage deduction from a proposer's evaluation score for the documented violations:

Criteria for Evaluating Contractor Past Performance

County Determination	Range of Deduction
<p>Major</p> <p>Three or more negative reports in the County Contract Database within the past three years; and/or</p> <p>Three or more negative reports on other agency contracts within the past three years (using County Contract Database criteria).</p>	<p>8 - 10%</p> <p>Consider investigating a finding of proposer non-responsibility (refer to County Code Title 2, Chapter 2.202.030)</p>
<p>Significant</p> <p>Two or Three negative reports in the County Contract Database within the past three years; and/or</p> <p>Two or Three negative reports on other agency contracts within the past three years (using County Contract Database criteria).</p>	<p>4 - 7%</p> <p>Consider investigating a finding of proposer non-responsibility (refer to County Code Title 2, Chapter 2.202.030)</p>
<p>Minor</p> <p>One or Two negative reports in the County Contract Database within the past three years; and/or</p> <p>One or Two negative reports on other agency contracts within the past three years (using County Contract Database criteria).</p>	<p>0 - 4%</p>

To provide consistency in evaluating the above criteria, which include contractor awareness and due process, departmental reporting processes for the County Contract Database will require the inclusion of documentation to support any negative reports. Such documentation would include Contract Discrepancy Reports (CDR's), audits, or other documentation that was provided to the contractor, along with any response provided by the contractor, to support any negative finding in either system as a basis for a negative assessment.

Notification to the contractor of a negative report in the County Contract Database, along with the provision to the contractor of supporting documentation and an opportunity to provide a response, will afford the contractor necessary due process.

The overall purpose of the County Contract Database is to provide County departments with a centralized means of reporting, tracking, reviewing and using contractor performance information for Proposition A, IT, construction, and cafeteria contracts. Using this tool to evaluate a contractor past performance will be an effective means for County departments to assess a contractor's ability to fulfill the contract requirements as long as the evaluation methodology is applied in a consistent, objective and fair manner, and is properly documented.

Contractor Alert Reporting Database (CARD)

On a separate track, the A-C, working with the CEO, ISD, and Counsel, has developed a new countywide monitoring system within the eCAPS Enterprise Resource Planning (ERP) system to report on all poorly performing contractors. Unlike the County Contract Database, CARD is not limited to Proposition A, IT, construction, and cafeteria contracts. However, CARD reports only poorly performing contractors.

CARD will also be used in the evaluation of a contractor's work history following similar standardized processes described above. Since the nature of the violations for contractors placed in CARD are generally more severe than the negative rating(s) listed in the County Contract Database, the point percentage deduction will carry more weight in the evaluation.

Next Steps

The proposed processes were discussed with the County's Audit Committee on March 17, 2011.

The workgroup is in the process of updating the applicable Board Policy for approval, and developing the solicitation language, evaluation documents and implementation instructions for County departments. This material is planned to be presented for Board approval in May 2011, with a planned July 2011 implementation.

Analyst Name _____
 SOLICITATION NO. _____

SERVICES EVALUATION CHECKLIST

Firm Name:	
Services Provided:	
Contracting Agency:	
Agency Contact and Title:	Telephone/Email:
Evaluation Period From:	To:

QUALITY OF SERVICE	LEAVE BLANK IF NOT APPLICABLE
Was the quality of service as specified in the contract delivered?	Yes <input type="radio"/> No <input type="radio"/>
Were any quality discrepancies noted?	Yes <input type="radio"/> No <input type="radio"/>
If so, were these discrepancies significant?	Yes <input type="radio"/> No <input type="radio"/>
TIMELINESS	
Did the contractor meet timelines and dates for contract requirements?	Yes <input type="radio"/> No <input type="radio"/>
Did the contractor submit all required reports in a timely manner?	Yes <input type="radio"/> No <input type="radio"/>
AVAILABILITY	
Did the contractor respond in a timely manner when problems arose?	Yes <input type="radio"/> No <input type="radio"/>
CORRECTIVE ACTION	
If there were any discrepancies, did the contractor correct them in a timely manner?	Yes <input type="radio"/> No <input type="radio"/>
Were there any issues not resolved?	Yes <input type="radio"/> No <input type="radio"/>
COMPLETENESS	
Did the contractor complete the contractual terms as outlined in specifications?	Yes <input type="radio"/> No <input type="radio"/>
PERSONNEL	
Were there any known violations of contract wage requirements?	Yes <input type="radio"/> No <input type="radio"/>
Were there any safety violations?	Yes <input type="radio"/> No <input type="radio"/>
PROFESSIONALISM	
Did the contractor conduct themselves in a professional manner?	Yes <input type="radio"/> No <input type="radio"/>
INSURANCE	
Did the contractor maintain appropriate insurance required by the contract throughout the contract period?	Yes <input type="radio"/> No <input type="radio"/>
OVERALL RATING	
Is the person rating this contractor familiar with the contractor's performance?	Yes <input type="radio"/> No <input type="radio"/>
Would you recommend this contractor for another project?	Yes <input type="radio"/> No <input type="radio"/>